C.F. 71.

10 1/1

Department of Land Revenue

OFFICE Of the Bd of Rev

STATION Madras

Ms No. 2572.

Dated 16-9-41

16 SEP 1941

pages in the file CF 6 pages
NF. 2 pages.

(SUBJECT)

Assignment- land (S. Kanara)- Kumaki for
Claimed for escheated property - Codes pas

Back Papers.

Dis.	No.	Department. Series.	Date.	Dis.	No.	Department Series.	Date.

BP/Pus 3225/1
33357/38

Further Papers.

Dis.	No.	Department. Series.	Dis.	No.	Department. Series.	Date.

Pus Ors. 4482/41

Ws 132(M)
A
02-7-42

Ref.B5-5029-41. South Kanara Collector's Office,

Mangalore, 16th August 1941

From

M. V. Subrahmanyan, Esq., I.C.S.

Collector of South Kanara

To The Secretary to the Board,

Land Revenue and Irrigation,

Madras.

Sir,

-- Assignment - (South Kanara) - Mangalore Taluk - Sajip Nadu village - Kumaki privileges claimed for escheated property - Orders solicited.

****

In B.P.Mis. 3222, dated 15-10-1937, the Board directed that when real property escheated to the Government is to be sold under B.S.O. 197-7, a notice should be published in the form prescribed for the sale of valuable land in Appendix V to B.S.O.No. 15, as -- the rights of the Government in lands escheated to them after they have been in possession for 12 years are the same as their rights in land at the disposal of the Government. In B.P.Mis.No.3335, dated 22-11-1938, the Board considered that escheats, bought-in-lands and lands at the disposal of the Government not obtained by escheat or buy-in should be treated in the same way when they --- qualify for assignment by sale. In the same B.P., the Board --- directed that the District practice of issuing sale certificate on payment of stamp duty should be discontinued and the instructions contained in B.P.Mis. 3222, dated 15-10-1937 should be followed.

2. A doubt has now arisen whether kumaki privileges should be allowed in the case of escheated lands thus sold and which --- were, prior to the escheat, kadim lands entitled to kumaki ----- privileges.

3. In a certain case which arose in 1939, where escheated --- property was sold in auction and an assignment order was passed

in respect of the property in the form in Appendix V to ---- B.S.O. 15 in favour of the highest bidder, the highest ----- bidder stated that an assignment order under B.S.O. 15 would deprive him of the kumaki ~~pr~~ rights attached to the plot and desired that a sale certificate might be issued to him, so that he could be ~~tempted~~ benefited by the registry of the plots as --- kadim. A decision was given in that case by my predecessor that escheated land when it is sold or assigned does not ---- carry with it ~~it~~ its original "kumaki" rights.

4. I have before me another case now. It relates to S. No. 27/8 and 28/2 of Sajip-Nadu village, Mangalore Taluk, -- which formed part of the Konde escheated property. These - were sold in auction in the year 1908, and a sale certificate was issued according to the previous practice. In --- the matter of assignment of an adjoining plot, 29/1C, the -- kumaki ~~privilege~~ claim has been put forward. The plots are even now registered as kadim warg. It may also be mentioned that in D.R.No. 85/40, dated 26-9-1931 on the file of the Deputy Tahsildar, Buntwal, kumaki privileges in respect of S.Nos. 28/4 and 28/2 (plots forming part of the Konde escheated --- property) were allowed. The question is whether according to the Board's orders referred to in paragraph 1 above such kumaki claims are to be disallowed.

5. I personally agree with the reason for the decision - referred to in paragraph 3 above - viz., that the change-over from the practice of issuing sale certificates to the practice of issuing orders of assignment implied also the extinction of kumaki privileges. I am not sure, however, whether the Board definitely contemplated that; and in this particular case there is also the point that in fact a sale certificate was issued. I request, therefore, that the Board may be -- pleased to issue instructions on the following points:-

(1) Whether kumaki privileges, where they existed ------- previously, are to be considered as extinguished in respect of escheated lands when they are disposed of by Government.

(2). If so, whether that principle is to be observed even in cases of escheated lands dealt with ~~by~~ prior to the issue of the orders in paragraph 1 above, i.e., in cases where ---- sale certificates were issued and not an order of assignment.

For Collector.

Mr J.B.B

DRAFT FOR APPROVAL.

Initials.

When received for fair copying ..	16/9	
When copied ..	16/9	
When examined..	16/9	
When signed ..		
When despatched.		

SUBJECT :— Assignment - land (S. Kanara) - kumaki privileges claimed for escheated property - Orders passed.

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO* :—

No. _____ From the Collr of S. Kanara Rep. No. 5029/41, dated 16.8.1941 Q.

" _____ " _____ " _____ " _____ 19____

" _____ " _____ " _____ " _____ 19____

~~Order~~ Ms. olution ~~Rout.~~ No. 2572, dated 16-9-1941

Joint wrgmt 16/9/41

It becomes the absolute property of Govt after the grantee in possession for twelve yrs.

With refce to his letter cited above the Collr is informed that when a kadim land escheats to Govt the kumaki privileges attached to it become extinct. It stands on the same footing as any other land at the disposal of the Govt ~~after 12 years ... it has been in the possession of the Govt~~ except for the fact that it should be sold in auction.

Under note (4) to Bye No. 15-40, it is only holdings formed prior to F. 1276 that have kumaki privileges. Holdings

formed after that tenants were not allowed such privileges. The excavated lands disposed of under B.S.O No. 197-7 fall in the category of such holdings. The Bd therefore considers that tenants lands escheated to Govt are not entitled to kumaki privileges. This principle holds good irrespective of whether a sale certificate or an order of assignment was issued.

15/5/41

TO THE Collector of Kannur

C.F. 32.

In reply, please quote number, date and short title.*

7 ..... DEPARTMENT.

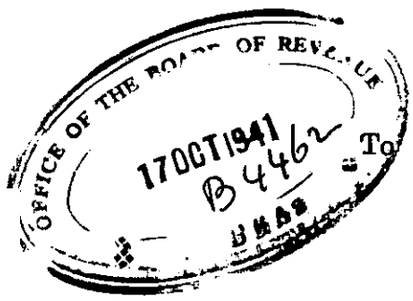
Received ..... *Registered* .....

From (Name) M. V. Subrahmanyan Esq., I.C.S.,

(Designation) Collector of South Kanara.

Post Box ....., (Station) Mangalore.

Telegraphic Address .....



To

The Secretary to the Board,
Land Revenue & Irrigation,
Madras.

Ref. A5 *No.* 6945-41 *dated* 14-10-41 ~~194~~.

Sir,

Assignment - land - Kumki privileges for escheated property - further instructions -solicited

ENCLOSURES .....

.....

.....

SPARE COPIES .....

I invite the Board's attention to my reference A5-3031-40 dated 21-4-1940 and Board's orders thereon Rt.No.3091 dated 30-6-41. The sale of lands comprised in the estate stands posted from 13-10-41 to 15-10-41 and the Dy.Tahsildar, Beltangady, has been requested to hold the sale on these dates. In his report dated 26-9-41 the Dy.Tahsildar stated that lands escheated to Government were not registered directly as Government lands but continued to be in holdings registered in the name of the Provincial Government that all the entries including the term 'kadim' were also allowed to continue in the land register (old settlement 'A' register) and requested orders whether before the lands were brought to sale they should be expunged from the holdings and the entry as 'kadim' in the register should also be corrected in view of the fact that the Board has ordered in its Mis. 2572 L.R.dated 16-9-41 that kadim lands escheated to Government were not entitled to kumki privileges. I have informed the Dy.Tahsildar that the registry of the lands in the name of the Provincial Government was correct that there is no

need to correct it now before sale that there is also no need to correct before sale the entry as kadim in the registers but it is essential that at the time of the sale, it should be announced that the lands to be sold though they are registered as kadim, are not entitled to kumki privileges for the reason given in the above B.P. and I have requested him to do this and also to make specific mention of it in the sale report. I request that my action may be approved.

2. The lands comprised in the above estate ordered to be sold include also a set of lands where the muli right alone was escheated and has been notified for sale. B.P. Mis. 2572 L.R.dated 16-9-41 applies only to cases where there is no mulgeni and I am not sure whether in the cases where only the muli right was escheated and is being sold the above order will apply. In this case the registry was in the name of the mulidar before the estate was escheated to Government and is now in the name of the Provincial Government. In such cases, it is quite possible to hold that what will subsist is only the mulgeni and a change in the status of the holding by reason of escheat as held in B.P.Mis. 2572 dated 16-9-41 will carry with it the curtailment of kumki rights attached to mulgeni. But on the other hand it seems to be more proper to hold that the kumki rights attaching to the mulgeni are unaffected and only the kumki rights attaching to the muli rights will be cancelled. As the sales stood posted to the 13th, 14th and 15th of this month Board's orders could not be obtained before the date of sale, I have requested the Dy.Tahsildar to have it announced at the time of sale, in respect of the set of lands where muli right alone is proposed to be sold, that the mulidar will have no kumki privileges but that the existing rights of the mulgenidar will remain unaffected. If this should be ruled to be wrong by the Board then I shall arrange to have the sale of these particular lands not confirmed and to have

them sold again with conditions notified according to the orders passed by the Board on the point. I request the favour of early orders.

For Collector.

15x-41

DRAFT FOR APPROVAL. Mr J BB

	Date.	Initials.
When received for fair copying ..	11.45 a.m. 3/11/41	
When copied ..	S.A	
When examined ..	3/11	GOS A.S.P
When signed ..		
When despatched.		

SUBJECT :— Assignment. Land - (Skanara) Kumaki privileges for escheated property - Further instructions - Issued

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO* :—

No. _____ From the Kdlr q Skanara, No. 6945/41, dated 14-10 1941

" _____ " _____ " _____ " _____ 19____

" _____ " _____ " _____ " _____ 19____

~~Order~~ Resolution ~~Rout.~~ Ms. No. LDC B4462/41, dated 3-11-41 19____

The Bd approves the Kdlr's action ~~reported~~ ~~informed~~ ~~the Dy Tahsr, Neltampady~~ as ~~stated~~ in para 1 q his letter cited above.

~~As regards~~ With reference to para 2 q his letter, the Kdlr is informed that the existing rights of the Mulgenidars will remain unaffected at the time q the disposal q escheated lands by the Govt

To The Kdlr q Skanara

BN = MM 1.11.41
30/10 31/10

Note file.

Assignment - Land (S. Kanara) - Mangalore Tk - Kumaki privileges claimed for escheated property - Orders requested.

B. 3521/41

From the Collr of S. Kanara d. 16.8.41

The Collr of S. Kanara enquires whether 1) whether kumaki privileges, where they existed previously, are to be considered to be extinguished in respect of escheated land when they are disposed of by Govt.; and 2) if so, whether that principle is to be observed even in cases where sale certificates were issued and not an order of assignment.

Kumaki land is Govt waste land within 100 yds of an assessed land included in a holding formed prior to Fasli 1276. Usually such a land is allowed to be enjoyed by the Wargdar (owner) or the mulgenidar (permanent tenant) of the assessed land for bonafide agricultural and domestic purposes. Such a privilege is not allowed in the case of holdings formed after F. 1276.

According to the instructions given in para 7 of S.C. No 197, escheated property cannot be disposed of until it has been in the possession of the Govt. After this period it stands on the same footing as an

other property at the disposal of the Govt except for the fact that it should be sold in auction

When a kadim land escheats to Govt, the kumaki privileges attached to it becomes extinct. Its disposal by Govt after 12 years from the date of escheat amounts to fresh assignment under the ordinary rules, and the land is not entitled to the kumaki privileges attached to it prior to its escheat to Govt. It is only a hosagame formed after F. 1276 ~~land assigned prior to F. 1276~~. This principle holds good irrespective of whether a sale certificate or an order of assignment was issued. The bdlr may be informed accordingly.

by 1/9/41 Holdings formed after Fasli 1275 have no kumaki rights. See Note 4 to para 46 3501 C.S. 1936 p. 57 Part 6

The point raised is essentially whether escheated lands should be treated differently from other lands at the disposal of Govt in regard to kumaki rights.

N may be offered.

For orders.

3.9.41

Yes 5/9/41

M3

SECY. 5 SEP 1941

To AS (HL)

Revised & draft submitted

by 6/9/41

1/9

3 Note file

M3

Assignment. Land (S. Kanara) - Kumaki privileges for escheated property - Further instructions - Solicited.

B. 4462/41

From the Collr of S Kanara d. 14.10.41.

To As.

Para 1 of the Collr's letter:-

In view of the orders issued in RP. Mis 2572 d. 16.9.41, the Bd may approve the Collr's action in having directed informed the Sy Tahr, Beltangady that the registry of the lands in the name of the Provl Govt was correct. That there is no need to correct it now before sale and that it should be announced that the land to be sold though they are registered as kadim, are not entitled to kumaki privileges.

Para 2:-

A 'Mulgenidar' is a permanent tenant of the kadim land. The Collr may therefore be informed that the existing rights of the mulgenida will remain unaffected at the time of the disposal of the lands by the Govt. For orders.

20/10/41

A above.

In another connection M3 has ordered that lands escheated to the Govt. should be exhibited in the village accounts in the following manner - "The Province of Madras - (escheat)".

necessary instructions will be issued separately by Cabinet in this matter. Till then, the procedure indicated at A on p 1 above may be followed.

21.10.41 Hqrs

Hqrs See BD may agree with the Cabr as noted above

For orders

28-X-41

TO AS(CS)

S CY. 30 OCT 1941

Draft submtd in L 24

This will be stitched with B.P. No 2572 of 16-5-41 after issue.

(87) 1-11-41

AS(CS)

for 30/10

31/X

B.P. No. Mis 2572
Dated 16.9.41

Single Number
~~Two Members~~
~~Full Board~~

	Assistant Secretary							
	A.A. & A.D.S & L.R.	L.R.	Irrign.	Sep. Rev.	J.S.	Secy.	M 3	M 2	M 1
1. Open file seen by	✓					✓			
2. Final draft seen by	✓								
3. Now circulated to	✓								
4. Initials									

~~Secretary~~
Joint Secretary.

Passed for record

A.S. (L.R.) 18/9/41
~~A.S. (Irrign)~~
~~A.S. (Sep.Rev.)~~
A.D.S.& L.R.
~~L.R.~~

18/9/41

Note:- Entries not required to be scored out.